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08/559,575	11/16/95	BUSBOOM	G

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EXAMINER

BATSON, V

ART UNIT

PAPER NUMBER

3501

9

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Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary

Application No.

08/559,575

Applicant(s)

GARRY W. BUSBOOM

Examiner

VIC BATSON

Group Art Unit

3501



☒ Responsive to communication(s) filed on Jan 23, 1997

☒ This action is **FINAL**.

☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 3 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

Disposition of Claims

☒ Claim(s) 9-21 is/are pending in the application.

Of the above, claim(s) _____ is/are withdrawn from consideration.

☐ Claim(s) _____ is/are allowed.

☒ Claim(s) 9-21 is/are rejected.

☐ Claim(s) _____ is/are objected to.

☐ Claims _____ are subject to restriction or election requirement.

Application Papers

☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☒ The drawing(s) filed on Nov 16, 1995 is/are objected to by the Examiner.

☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.

☐ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☐ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been
☐ received.

☐ received in Application No. (Series Code/Serial Number) _____

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received: _____

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

☒ Notice of References Cited, PTO-892

☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). _____

☐ Interview Summary, PTO-413

☐ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

Part III DETAILED ACTION

Drawings

1. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they do not include the following reference sign(s) mentioned in the description: 24a, 24b, 24c, 22 (found on page 7). Correction is required.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. § 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 9 & 10 are rejected under 35 U.S.C. § 102(b) as being anticipated by Kidd (4,055,036).

Kidd discloses a multiblade lawnmower having all of applicants claimed structure including a mower deck comprising a top wall, a front wall, a back wall and first and second side walls. Kidd further discloses first (103) and second (108, 109, 107, 105) flow control baffles.

4. Claim 9 is rejected under 35 U.S.C. § 102(b) as being anticipated by Koehn et al. (5,465,564).

Koehn et al. discloses a multiblade lawnmower having all of applicants claimed structure including a mower deck, first second and third cutting blades, with the second cutting blade having its rotational axis disposed forwardly of the rotational axis of the first and third cutting blades (figure 2). Koehn et al. further discloses a first flow control baffle 32.

Claim Rejections - 35 USC § 103

5. Claims 10-14, 21 are rejected under 35 U.S.C. § 103 as being unpatentable over Koehn et al. (5,465,564) in view of Kidd (4,055,036).

Koehn et al. discloses a multiblade lawnmower as described previously, but lacks a second baffle, or the first baffle having a straight section between the semi-circular baffle portions.

Kidd teaches that it is old and well known in the art to use a first baffle having a straight section between the semi-circular baffle portions, with a second baffle (108, 109, 107, 105). Both the second baffle and the straight baffle sections help direct the grass clippings to the discharge opening.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the mower of Koehn et al. by using a second baffle and straight baffle sections as taught by Kidd, to help direct the grass clippings to the discharge opening of the lawnmower.

6. Claims 15-17 are rejected under 35 U.S.C. § 103 as being unpatentable over Kitamura et al. (5,337,543) in view of Crump (2,711,624).

Kitamura et al. discloses a riding lawnmower having a frame means, first and second drive wheels, an operator's station, a mower deck, a plurality of cutting blades each having spindles, with a first vertically disposed shaft rotatably mounted in the mower deck at the rearward end, with an upper pulley mounted on the upper end of the first shaft, and a lower pulley mounted on the first shaft, with the lower pulley being substantially disposed in the same plane as the top wall of the mower deck (see the raised front section of the deck beneath reference number 30) as shown in figure 1. Kitamura et al. further discloses a first belt means interconnecting the deck drive pulley with the other

spindles. Kitamura et al. however lacks a rearwardly disposed drive means.

Crump teaches that it is known in the art to use a rearwardly disposed drive means including a rearwardly extending drive shaft, a drive pulley mounted on the drive shaft, first and second idler pulleys 70 & 71, and a belt means extending around the drive pulley, idler pulleys and lower deck drive pulley as shown in figure 1. The drive setup of Crump allows for easy access to the engine drive pulley and belt for easy maintenance.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the mower of Kitamura et al. by using a drive system similar to Crump, to allow for easy access to the engine drive pulley and belt. Additionally, Kitamura et al. lacks the engine-drive-belt sheave being positioned above the blades-drive-belt sheave. It would have been obvious to one having ordinary skill in the art at the time the invention was made to position the engine-drive-belt sheave of Kitamura et al. below the blades-drive-belt sheave, since it has been held that a mere reversal of the essential working parts of a device involves only routine skill in the art. *In re Einstein*, 8 USPQ 167. Additionally, concerning the

forwardly extending driving shaft (claim 17), it would have been an obvious matter of design choice to modify Kitamura et al. by having the driving shaft and coupling forwardly extending, since applicant has not discloses that having the driving shaft and coupling extending forwardly, solves any stated problem or provides any unexpected results, and the lawnmower would perform equally well with driving shaft and coupling extending at any position.

7. Claim 18 is rejected under 35 U.S.C. § 103 as being unpatentable over Kitamura et al. (5,337,543) in view of McCanse (3,680,292).

Kitamura et al. discloses a riding lawnmower as described previously, but lacks flexible chain means interconnecting said linkage means and said mower deck. The examiner notes that in figure 1, Kitamura et al. shows the use of an elongated handle (located directly in front of seat 8 in figure 1) connected to linkage means for positioning the mower deck. Kitamura et al. further shows the blade positioning means including an arcuate frame means having a plurality of spaced-apart openings formed therein (located below reference character 2). Concerning claim

19, the opening on the upper end of the arcuate frame means is considered a laterally offset recessed portion on one of the frame members, which when used, selectively maintains the handle in the upper position.

McCanse teaches that it is old and well known in the art to use a chain 54 as part of a lifting means of a lawnmower deck. The use of chains as part of the lawnmower deck lifting means allows the deck to ride over bumps or uneven terrain without distributing the force to the rest of the lifting linkage, thus preventing damage to the linkage.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the mower of Kitamura et al. by attaching chains between the lifting linkage and the mower deck, to protect the linkage from damage. Concerning the claimed recitation of a removable pin extending through one of said openings, although Kitamura et al. is silent as to the use of a pin in the openings shown in figure 1, the examiner takes official notice that a pin in an opening is a type of connection that is old and well known in art.

8. Claim 19 is rejected under 35 U.S.C. § 103 as being unpatentable over Kitamura et al. (5,337,543) in view of Crump (2,711,624) as applied to claims 18 above, and further in view of Hake (5,249,411).

Kitamura et al. as modified by McCanse discloses a lawnmower as described previously, but lacks specifying that the arcuate member used as part of the deck raising means is a single frame member or a pair of spaced-apart frame members.

Hake, in figures 1 & 2 discloses that it is old and well known in the art to use a pair of spaced-apart frame members 109 with a handle 108 and linkage, to selectively position a handle and adjust the height of a mower deck. Using a pair of spaced-apart frame members instead of one frame member enhances the ruggedness of the deck lifting means.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the mower of Kitamura et al. by using a pair of space-apart frame members instead of a single member as taught by Hake, to enhance the ruggedness of the deck lifting means.

9. Claim 20 is rejected under 35 U.S.C. § 103 as being unpatentable over Kitamura et al. (5,337,543) in view of McCanse (3,680,292) as applied to claim 15-17 above, and further in view of Wright et al. (5,507,138).

Kitamura et al. as modified by McCanse discloses a lawnmower as described previously, but lacks specifying that the drive shafts of the hydraulic pumps are rotated in the same direction.

Wright et al. teaches that it is known in the art to drive hydraulic pumps used for driving wheels in the same direction (for example forward or reverse directions), so that the lawnmower will move in a straight line. It is also known to drive the hydraulic pumps in opposite directions to help in turning the lawnmower.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the mower of Kitamura et al. as modified by McCanse, by having the hydraulic pumps rotate in the same direction (such as the forward direction), as taught by Wright et al., so that the lawnmower can move in a straight line.

Conclusion

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The remaining references disclose various lawn mower arrangements.

Response to Arguments

11. Applicant's arguments with respect to claims 9-21 have been considered but are moot in view of the new ground(s) of rejection.

12. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for response to this final action is set to expire THREE MONTHS from the date of this action. In the event a first response is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee

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pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event will the statutory period for response expire later than SIX MONTHS from the date of this final action.


Inquiries

13. Any inquiry concerning this communication should be directed to Examiner Victor Batson whose telephone number is (703) 305-6356. The examiner can be normally reached Monday through Friday (except Wednesday) from 7:00 am to 5:00 pm, Eastern Standard Time.

14. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Randolph Reese, can be reached on (703) 308-2121. The fax phone number for this Group is (703) 305-3597/8.

**VICTOR BATSON
PATENT EXAMINER
GROUP 3500**

Victor Batson
April 10, 1997


**TERRY LEE MELIUS
PRIMARY EXAMINER
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